

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
South Bend Metronet, Inc., Centennial Randolph	)	
Cellular, LLC, Mega Comm, LLC and Centennial	)	
Cellular Tri-State Operating Partnership	)	
	)	
Petition for FCC Agreement in Redefining the	)	
Service Areas of Tri-County Telephone Company,	)	
Inc., Hancock Rural Telephone Corp., CenturyTel	)	
of Central Indiana, Inc., Smithville Telephone	)	
Company, Inc., and Northwestern Indiana	)	
Telephone Company, Inc.	)	

**COMMENTS OF TDS TELECOMMUNICATIONS CORP.**

TDS Telecommunications Corp. (TDS Telecom), parent company of rural local exchange carrier (RLEC) Tri-County Telephone Company, Inc. (Tri-County Telephone), submits these comments in response to the Petition of South Bend Metronet, Inc., Centennial Randolph Cellular, LLC, Mega Comm, LLC, and Centennial Tri-State Operating Partnership (collectively, “Centennial”) for FCC Agreement in redefining the service areas of certain rural local exchange carriers in the State of Indiana (Petition), including the Tri-County Telephone service area.<sup>1</sup>

TDS Telecom urges the Commission to deny the Petition with respect to Tri-County Telephone on the ground that redefining Tri-County Telephone’s service area as proposed would allow

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<sup>1</sup> *Federal-State Joint Board on Universal Service, Petition for Agreement in Redefining the Service Areas of Tri-County Telephone Company, Hancock Rural Telephone Corp., CenturyTel of Central Indiana, Inc., Smithville Telephone Company, Inc., and Northwestern Indiana Telephone Company, Inc.*, CC Docket No. 96-45 (Feb. 8, 2004, Public Notice Feb. 22, 2005) (Petition).

Centennial to “cream-skim” and could undermine Tri-County Telephone’s ability to serve its study area.

**I. THE COMMISSION SHOULD APPLY THE STANDARDS DEVELOPED IN THE RELATED RULEMAKING PROCEEDING TO THE CENTENNIAL PETITION**

As an initial matter, TDS Telecom urges the Commission to evaluate the Petition pursuant to the standards applied in the recently-adopted order concerning the designation of eligible telecommunications carriers (ETCs) and the redefinition of rural telephone company service areas. On February 25, 2005, the Commission adopted an order in response to a Recommended Decision of the Federal-State Joint Board on Universal Service (Joint Board) recommending that the Commission adopt specific criteria for evaluating petitions for ETC designation.<sup>2</sup> Although the *ETC Order* has not yet been released, the News Release summarizing the Order indicates that it addresses certain pending petitions for redefinition of rural telephone company service areas. The Commission here should apply any new standards adopted in the *ETC Order* to the Centennial Petition and any other pending petitions for Commission agreement in the redefinition of rural telephone company service areas. This is consistent with the approach the Commission took after issuing the *Virginia Cellular* and *Highland Cellular* orders adopting an interim standard for evaluating ETC petitions.<sup>3</sup> This

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<sup>2</sup> See News Release, *Commission Adopts Additional Requirements for Eligible Telecommunications Carrier Proceedings*, CC Docket No. 96-45 (Feb. 28, 2005, describing Order FCC 05-46, adopted Feb. 25, 2005) (*ETC Order*).

<sup>3</sup> Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 03-338 (rel. Jan. 22, 2004) (*Virginia Cellular*); Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service Highland Cellular, Inc Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 04-37 (rel. April 12, 2004) (“*Highland Cellular*”); Public Notice, *Parties are Invited to Update the Record Pertaining to Pending Petitions for Eligible Telecommunications Carrier Designations*, CC Docket No. 96-45, DA 04-999 (rel. Apr. 12, 2004) (inviting parties with then-pending petitions for ETC designation and service area redefinition to submit additional information showing how they satisfied the standards set forth in *Virginia Cellular* and *Highland Cellular*).

approach will also ensure that the decision on the Centennial Petition is consistent with the public interest as understood by the Commission at the time the decision is made.

In addition, in evaluating the Centennial Petition the Commission should consider whether the underlying designation of Centennial as an ETC is consistent with the new ETC eligibility criteria adopted in the *ETC Order*. The News Release indicates that the Commission intends to apply the new ETC eligibility criteria prospectively to previously-designated ETCs, and it would further the goals of the *ETC Order* for the Commission to consider whether those criteria have been satisfied where a state-designated ETC seeks Commission agreement in the redefinition of one or more rural telephone company service areas. The Commission should not concur in the redefinition of a rural telephone company service area to enable the ETC designation of a carrier that clearly does not meet the criteria applied by the Commission in evaluating petitions for ETC designation.

As it did after issuance of the *Virginia Cellular* order, the Commission could, if necessary, give Centennial an opportunity to supplement its Petition with information attempting to demonstrate that Centennial meets any new standard adopted by the Commission for a carrier seeking competitive ETC designation and the related redefinition of rural telephone company service areas.

## **II. THE PUBLIC INTEREST WOULD NOT BE SERVED BY GRANTING THE SERVICE AREA REDEFINITION REQUESTED IN THE PETITION**

Pending release of the *ETC Order*, TDS Telecom will comment on the Centennial Petition for redefinition of the Tri-County Telephone service area based on the interim *Virginia Cellular* and *Highland Cellular* standards. In *Virginia Cellular* and *Highland Cellular*, the Commission affirmed that decisions concerning redefinition of a rural telephone company's service area to allow a competitive ETC to serve only a portion of that area should take into

account the concerns of the Joint Board in (1) minimizing creamskimming;<sup>4</sup> (2) recognizing that the Telecommunications Act of 1996 places rural telephone companies on a different competitive footing than other local exchange carriers; and (3) recognizing the administrative burden of requiring rural telephone companies to calculate costs at something other than the study area level.<sup>5</sup> The Commission also provided additional guidance concerning the circumstances in which creamskimming concerns are implicated.

In the order designating Centennial as an ETC, the Indiana Utility Regulatory Commission (IURC) discounted any creamskimming concerns because “Centennial . . . is not . . . picking or choosing the ‘lowest cost exchanges’ of the affected rural telephone companies, but instead . . . bases its requested ETC area on its licensed service area and proposes to serve the entirety of that area.”<sup>6</sup> However, *Virginia Cellular* and *Highland Cellular* looked to the effect, rather than merely the purpose, of the petitioner’s request. The Commission made clear that the mere fact that the area in which a petitioner seeks ETC designation is determined by the petitioner’s wireless service area does not by itself support a conclusion that the public interest would be served by granting ETC designation in the requested partial service area.<sup>7</sup> Instead, the Commission examined both the population density of the wire center(s) in which the petitioner sought to be designated as an ETC and the disparity between the density of the designated wire

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<sup>4</sup> “Rural creamskimming occurs when competitors serve only the low-cost, high revenue customers in a rural telephone company’s study area.” *Virginia Cellular* ¶ 32; *Highland Cellular* ¶ 26.

<sup>5</sup> See *Virginia Cellular* ¶ 41; *Highland Cellular* ¶ 38.

<sup>6</sup> See Order, *Centennial Tri-State Operating Partnership; Centennial Randolph Cellular LLC; Elkhart Metronet, Inc.; Mega Comm LLC; Michiana Metronet, Inc.; and South Bend Metronet, Inc. Application for Designation as Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Communications Act of 1934*, Cause No. 41052-ETC 46 (Dec. 15, 2004).

<sup>7</sup> *Highland Cellular* ¶¶ 26-27.

center(s) and the other wire centers in the RLEC's service area.<sup>8</sup> The Commission relied on this comparative density information to determine whether designating the petitioner as an ETC in the specified wire center(s) – and redefining the RLEC's service area to permit such designation – could potentially undermine the RLEC's ability to serve its entire study area.<sup>9</sup> In *Highland Cellular*, the Commission further noted that where the RLEC's "study area includes wire centers with highly variable population densities, and therefore highly variable cost characteristics, disaggregation may be a less viable alternative for reducing creamskimming opportunities. This problem may be compounded where the cost characteristics of the incumbent and competitor differ substantially."<sup>10</sup> Accordingly, the Commission "reject[ed] arguments that incumbents can, in every instance, protect against creamskimming by disaggregating high-cost support to the higher-cost portions of the incumbent's study area."<sup>11</sup>

Before applying the *Virginia Cellular* and *Highland Cellular* creamskimming tests to the Petition, TDS Telecom suggests one slight modification to ensure that the tests reflect more accurately the cost characteristics of the relevant wire centers. Specifically, we respectfully suggest that the Commission examine *access line density* – calculated by dividing the number of access lines served by a wire center by the square mileage of the area served – rather than population density when evaluating the potential creamskimming effect of a partial ETC designation and related service area redefinition. In the experience of TDS Telecom, access line density reflects much more accurately the costs of serving a wire center than the density of the population living in that area.

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<sup>8</sup> *Virginia Cellular* ¶ 35; *Highland Cellular* ¶¶ 29-31.

<sup>9</sup> *Virginia Cellular* ¶ 35; *Highland Cellular* ¶ 32.

<sup>10</sup> *Highland Cellular* ¶ 32.

<sup>11</sup> *Id.*

Applying this modified test to the Petition, the potential creamskimming effect is apparent. The access line densities of Tri-County Telephone's wire centers are shown in the following table. The center in which Centennial sought ETC designation is indicated in bold:

Wire Center	Access Line Density (lines/sq. mile)
<b>Colfax</b>	<b>15.663</b>
Linden	2.606
Romney	21.829
Wingate	7.501

The disparity is clear. Centennial seeks to serve only one Tri-County Telephone wire center, the second most dense wire center. Moreover, that wire center is more than twice as dense as the two lowest-density wire centers in the Tri-County Telephone service area. This is exactly the kind of creamskimming the Commission sought to avoid under *Virginia Cellular* and *Highland Cellular*.

Even if the disparity in the density of the wire center Centennial seeks to serve is not motivated by an *intent* to engage in rural creamskimming, the *effect* on Tri-County Telephone of limiting Centennial's ETC designation to the relatively high-density Colfax wire center while excluding low-density wire centers is the same and could place Tri-County Telephone at "a sizeable unfair disadvantage."<sup>12</sup> Indeed, the Commission expressly noted in *Highland Cellular* that even where a competitive carrier is simply seeking ETC designation in its own licensed service area, and thus is not "deliberately seeking to enter only certain portions of [rural telephone] companies' study areas in order to creamskim," "granting a carrier ETC

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<sup>12</sup> See *Highland Cellular* at ¶ 32; *Virginia Cellular* at ¶ 35.

designation for only its licensed portion of the rural study may have the same effect on the ILEC as rural creamskimming” and would be inconsistent with the public interest.<sup>13</sup>

Although Tri-County Telephone could choose to disaggregate universal service support to the wire center, the Commission has acknowledged that disaggregation cannot always protect against the effects of creamskimming, particularly where the incumbent’s wire centers exhibit highly variable population densities and therefore highly variable cost characteristics.<sup>14</sup> These characteristics are present in the Colfax wire center. As a proxy to demonstrate the variation in access line density across its wire centers, TDS Telecom calculated the access line density in each Census Block Group (CBG) within the Colfax wire center.<sup>15</sup> The densities of the CBGs do not reflect exactly the density within the wire center because the boundaries of the CBGs do not correspond precisely with wire center boundaries (*i.e.*, part of a CBG may be in one wire center while another part is in another wire center). Nonetheless, we believe that the access line densities of the CBGs that are partially or entirely within the Colfax wire center can serve as a useful indicator of how population and access lines are grouped within the wire center.

An examination of the access line densities in the CBGs within the Colfax wire center shows significant variation in access line density. There are seven CBGs in the Colfax wire center, and access line densities range from as high as 30.594 lines/sq. mile to as low as 4.906 lines/sq. mile. Because the Colfax wire center has “highly variable population densities,

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<sup>13</sup> *Highland Cellular* ¶¶ 26-27. It is worth noting that denying a wireless carrier’s petition to redefine a rural telephone company service area in order to designate the wireless carrier as a competitive ETC in only part of the rural telephone company’s service area does not affect the wireless carrier’s ability to *serve* its entire licensed service area – it affects only the carrier’s ability to *receive universal service support* for serving a small portion of its licensed service area.

<sup>14</sup> *Highland Cellular* ¶ 32.

<sup>15</sup> Census Block Groups are established by the U.S. Census Bureau for purposes of compiling and analyzing census information. The CBG figures used here are from the 2002 Census.

and therefore highly variable cost characteristics,”<sup>16</sup> disaggregation is less viable for reducing creamskimming opportunities.<sup>17</sup>

In sum, the redefinition of the Tri-County Telephone service area sought in the Petition would be inconsistent with the public interest under *Virginia Cellular* and *Highland Cellular* because the redefinition would implicate creamskimming concerns and potentially undermine Tri-County Telephone’s ability to serve its entire study area. Accordingly, the Petition must be denied and referred to the IURC for reconsideration of the underlying decision to designate Centennial as an ETC in only portions of Tri-County Telephone’s study area.

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<sup>16</sup> *Highland Cellular* ¶ 32.

<sup>17</sup> Even where the wire centers within a study area do not exhibit highly variable population densities, disaggregation of universal service support does not fully protect against the potential harm caused to the incumbent by creamskimming. Although disaggregation and targeting of universal service support can ensure that rural telephone companies continue to recover the direct costs of serving their most high-cost wire centers (which are not subject to competition), certain cross-wire-center network and overhead costs may not be fully reflected in disaggregation plans. If universal service payments for lower-cost areas subject to competition eventually decline, those cross-wire-center costs (which will persist as the rural incumbent continues to maintain its network as the “carrier of last resort” throughout its service area) may not be fully recovered. Thus, disaggregation alone does not ensure that the public interest will be served by the designation of Centennial as a competitive ETC in the Colfax wire center.




**CONCLUSION**

For the foregoing reasons, the Commission should reject the Petition and refer it to the IURC for reconsideration of its decision to redefine the Tri-County Telephone service area and designate Centennial as a competitive ETC in the Colfax wire center. Upon release of the *ETC Order*, the Commission should allow all parties to provide additional comment concerning the applicability of the redefinition standards set forth in that order.

Respectfully submitted,

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A handwritten signature in blue ink, reading "Mary Newcomer Williams".

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